S.B.Civil Second Appeal No.94/2007.

Jai Dayal through his LRs.
vs.
Sri Lal through his LRs.

Date : 21.3.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr. SN Trivedi, for the appellant.

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Heard.

The trial court decreed the suit of the plaintiff for eviction of the tenant/defendant on the ground of second default in payment of rent. That finding of fact has been upheld by the first appellate court.

After going through the reasons given by the two courts below for recording such finding of fact, it appears that the finding of fact has been recorded after full appreciation of evidence and virtually, it is case of no defence.

In view of the above, I do not find any substantial question of law involved in this appeal and this second appeal deserves to be dismissed.

At this stage, learned counsel for the appellant prayed that some time may be granted to the appellant to vacate the suit premises.

I considered this prayer of learned counsel for the appellant. Since the appeal is at admission stage and notices have not been issued to the respondent but looking to the facts of the case, this Court is of the view that the appellant be granted time upto 31.12.2007 to vacate the suit premises.

Therefore, it is ordered that in case, the appellant furnishes a written undertaking before the trial court within a period of two months from today that he shall hand over the vacant possession to the landlord by or before 31.12.2007 and shall not part with the possession or sublet the suit premises during this period and shall pay all the arrears of rent and decreetal amount, if due, within a period of two months from today before the trial court or directly to the landlord, the decree under challenge shall not be executed till 1.1.2008. The appellant shall also deposit the rent month by month by 15th day of each succeeding month of his tenancy in the trial court or pay directly to the landlord.

In case of non-compliance of the order or default in payment of rent mentioned above, the decree shall

become executable forthwith.

Since the order has been passed ex-parte granting time to the appellant, therefore, the respondent will be free to move application if they have any objection in grant of time to the appellant for vacating the suit premises.

With the aforesaid concession, this appeal is dismissed.

(PRAKASH TATIA), J.

S.Phophaliya